

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Crl.MC.No. 4644 of 2015 ()

CRIME NO. 432/2012 OF MANJERI POLICE STATION, MALAPPURAM DISTRICT

PETITIONERS/ACCUSED :

- 1. SAIFUDHEEN KONNALATH
AGED 30 YEARS, S/O ABDULLA,
NIRAKKANDATHIL HOUSE, KIZHUPARAMBA
WEST PATHANAPURAM, PIN:673639,
MALAPPURAM DISTRICT.**
- 2. ABDULLA A.,
AGED 56 YEARS, F/O SAIFUDHEEN KONNALATH,
NIRAKKANDATHIL HOUSE, KIZHUPARAMBA,
WEST PATHANAPURAM, PIN-673639
MALAPPURAM DISTRICT.**

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/STATE AND COMPLAINANT :

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. SATYAN,
AGED 37 YEARS, S/O GOPALAN,
ASSOCIATE IN LEGAL COORDINATION
CHOLAMANDALAM INVESTMENTS AND FINANCE COMPANY LTD.
SREEVALSAM BUILDING, EAST NADAKKAVU-673011
KOZHIKODE DISTRICT.**
- 3. SREEJITH N.P.,
AGED 33 YEARS, S/O SREEKUMAR
SENIOR PROCESS IN CHARGE-LEGAL CO-ORDINATOR
CHOLAMANDALAM INVESTMENT & FINANCIERS
MARANAT CHAMBERS, KACHIRIPADY, MANJERI-676121
MALAPPURAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI. R. GITHESH
R3 BY ADV. SRI.K.C.ANTONY MATHEW**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 4644 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A1: TRUE COPY OF THE FIR AND FINAL REPORT IN CRIME
 NO.432/2012 OF MANJERI POLICE STATION.**

ANNEXURE A2: TRUE COPY OF POWER OF ATTORNEY.

**ANNEXURE A3: THE AFFIDAVIT DATED 27.4.2015 SWORN BY THE 3RD
 RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.No.4644 of 2015

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Dated this the 23rd day of July, 2015

ORDER

The petitioners herein are the accused in the impugned Anx.A-1 final report/charge sheet filed in Crime No.432/2012 of Manjeri Police Station, registered for offence punishable under Sec.406 read with Sec.34 of the I.P.C., at the instance of the 2nd respondent, who was an employee of the Cholamandalam Investments & Finance Co. Ltd., which has led to the institution of Calendar Case, C.C.No.71/2013 on the file of the Judicial First Class Magistrate's Court, Manjeri. The allegation against the petitioners is that the 1st petitioner did not repay the loan taken from Cholamandalam Investments & Finance Co. Ltd., for which the 2nd petitioner was the guarantor. It is stated that now the entire disputes between the petitioners and the contesting respondent company have been settled amicably and that the 3rd respondent, who is the Senior Process Incharge-Legal Co-ordinator of the company, has sworn to Anx.A-3 affidavit before this Court, wherein

it is stated that the company has settled the entire disputes with the petitioners and that the company has no objection for quashment of the impugned criminal proceedings pending against the petitioners herein. It is in the light of these aspects that the petitioners have preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against them.

2. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State*

of Punjab reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and Narinder Singh and others v. State of Punjab and anr. reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment. Accordingly, it is ordered in the interest of justice that the impugned Anx.A-1 final report/charge sheet filed in Crime No.432/2012 of Manjeri Police Station, which has led to the institution of Calendar Case, C.C.No.71/2013 on the file of the Judicial First Class Magistrate's Court, Manjeri and all further proceedings arising therefrom pending against the petitioners herein stand quashed.

With these observations and directions this Crl.M.C. stands finally disposed of.

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ALEXANDER THOMAS, JUDGE

The name of the lower court, "Judicial First Class Magistrate Court, Manjeri" occurring in the 7th and 8th lines of paragraph 1 and 22nd and 23rd lines of paragraph 2 at page 3 of the final order dated 23/07/2015 in Crl.M.C.No.4644/2015 is corrected and substituted as " Chief Judicial Magistrate Court, Manjeri" as per order dated 07/09/2015 in Crl.M.A.No.8847/2015 in Crl.M.C.No.4644/2015.

Sd/-
Registrar (Judicial)

///True copy///

P.S. to Judge

Cr1.M.C.4644/15

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